

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:16-CV-738-BR

SANDRA FARRINGTON, individually)
and as Administrator for the Estate of)
JOVAN JEROME GAYLE,)
)
Plaintiff,)
)
v.)
)
GENERAL MOTORS LLC, et al.,)
)
Defendants.)

ORDER

This matter is before the court on plaintiff's motion to remand. (DE # 13.)

On 6 July 2016, plaintiff initiated this action in Harnett County, North Carolina Superior Court. She alleges state law claims against defendants General Motors LLC ("GM"), Honeycutt's Auto Sales, Inc. ("Honeycutt's"), and Does 1 through 100. GM is a Delaware limited liability company, (Compl., DE # 1-1, ¶ 2; Answer, DE # 9, ¶ 2), and Honeycutt's is a North Carolina corporation, (Compl., DE # 1-1, ¶ 7; Answer, DE # 22, ¶ 7). Plaintiff alleges that the Doe defendants are individuals and/or entities qualified and/or authorized to do business in North Carolina. (Compl., DE # 1-1, ¶8.) Plaintiff has not amended the complaint to name any Doe defendant.

On 11 August 2016, GM removed the action to this court on the basis of diversity jurisdiction under 28 U.S.C. § 1332(a). (Notice, DE # 1, ¶ 3.) Recognizing that Honeycutt's is not a citizen of North Carolina, GM nonetheless maintained that removal was proper because plaintiff had fraudulently joined Honeycutt's as a defendant. (*Id.* ¶¶ 5, 8.) Plaintiff opposed removal and filed the instant motion to remand. GM opposed the motion. Honeycutt's did not

file any response to the motion.

On 23 November 2016, the parties stipulated to the dismissal with prejudice of plaintiff's claims against GM. Without GM as a party, no basis for jurisdiction exists. Accordingly, plaintiff's motion to remand is GRANTED. This case is REMANDED to Harnett County Superior Court. The Clerk is DIRECTED to serve a copy of this order on the Clerk for that court.

This 28 November 2016.

A handwritten signature in green ink, appearing to read "W. Earl Britt", is positioned above a horizontal line.

W. Earl Britt
Senior U.S. District Judge